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PART IV.

Section 1-A.

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON

NOTIFICATION.

No. L.D. 1516—Legis. 3-51-33, dated Bangalore, 12th November 1951.

Ordered that the Reports of the Select Committees on the Industries (Development and Regulation) Bill, 1951 and the Press (Objectionable Matter) Bill, 1951 (Central Bills Nos. 30 of 1949 and 73 of 1951, respectively) published in the *Gazette of India*, Part II, Section 2, dated the 6th October 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
Legal Remembrancer and
Secretary to Government,
Law Department.

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(AS AMENDED BY THE SELECT COMMITTEE)

(Words sidelined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions.)

BILL NO. 30 OF 1949.

A bill to provide for the development and regulation of certain industries.

BE it enacted by Parliament as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement*—(1) This Act may be called the Industries (Development and Regulation) Act, 1951.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. * * *

2. *Declaration as to expediency of control by the Union.*—It is hereby declared that it is expedient in the public interest that the Union should take under its control the industries specified in the First Schedule.

3. *Definitions.*—In this Act, unless the context otherwise requires,—

(*a*) "Advisory Council" means the Central Advisory Council established under section 5;

(*b*) "Development Council" means a Development Council established under section 6;

(*c*) "factory" means any premises, including the precincts thereof, in any part of which a manufacturing process is being carried on or is ordinarily so carried on—

(i) with the aid of power, provided that fifty or more workers are working or were working thereon on any day of the preceding twelve months; or

(ii) without the aid of power, provided that one hundred or more workers are working or were working thereon on any day of the preceding twelve months and provided further that in no part of such premises any manufacturing process is being carried on with the aid of power;

(*d*) "industrial undertaking" means any undertaking pertaining to a scheduled industry carried on in one or more factories by any person or authority including Government;

(*e*) "notified order" means an order notified in the Official Gazette;

(*f*) "owner" in relation to an industrial undertaking, means the person who, or the authority which, has the ultimate control over the affairs of the undertaking, and, where the said affairs, are, entrusted to a manager or managing agent [as those expressions are defined in the Indian Companies Act, 1913 (VII of 1913)], such manager or managing agent shall be deemed to be the owner of the undertaking;

(*g*) "prescribed" means prescribed by rules made under this Act;

(*h*) "Schedule" means a Schedule to this Act:

(*i*) "scheduled industry" means any of the industries specified in the First Schedule.

4. *Saving.*—Nothing in this Act shall apply to an industrial undertaking the capital invested therein does not exceed rupees one lakh.

CHAPTER II

* The Central Advisory Council and Development Councils.

5. *Establishment and constitution of Central Advisory Council and its functions.*—(1) For the purpose of advising it on matters concerning the develoment and regulation of scheduled industries, the Central Government may, by notified order, establish a Council to be called the Central Advisory Council.

(2) The Advisory Council shall consist of a Chairman and such other members, not exceeding thirty in number, all of whom shall be appointed by the Central Government from among persons appearing to it to be persons who are capable of representing the interests of—

(*a*) owners of industrial undertakings in scheduled industries ;

(*b*) persons employed in industrial undertakings in scheduled industries ;

(*c*) consumers of goods manufactured or produced by scheduled industries ;

(*d*) such other class of persons, as in the opinion of the Central Government, ought to be represented on the Advisory Council.

(3) The term of office of the procedure to be followed in the discharge of their functions by, and the manner of filling casual vacancies among, members of the Advisory Council, shall be such as may be prescribed.

(4) The Central Government shall consult the Advisory Council in regard to—

(*a*) the making of any rules, other than the first rules to be made under this Act ;

(*b*) the exercise by the Central Government of any of the powers conferred upon it under section 16 or sub-section (1) of section 17 ;

and may consult the Advisory Council in regard to any other matter connected with the administration of this Act in respect of which the Central Government may consider it necessary to obtain the advice of the Advisory Council.

6. *Establishment and constitution of Development Councils and their functions.*—(1) The Central Government may, by notified order, establish for any scheduled industry or group of scheduled industries, a body of persons to be called a Development Council which shall consist of members of the following categories, that is to say, in the case of every Development Council—

(*a*) persons capable of representing the interests of owners of industrial undertakings in the scheduled industry or group of scheduled industries ;

(*b*) persons having special knowledge of matters relating to the technical or other aspects of the scheduled industry or group of scheduled industries ;

(*c*) persons capable of representing the interests of persons employed in industrial undertakings in the scheduled industry or group of scheduled industries ;

(*d*) persons not belonging to any of the aforesaid categories, who are capable of representing the interests of consumers of goods manufactured or produced by the scheduled industry or group of scheduled industries.

(2) The number and the term of office of, and the procedure to be followed in the discharge of their functions by, and the manner of filling casual vacancies among members of a Development Council shall be such as may be prescribed.

(3) Every Development Council shall be, by virtue of this Act, a body corporate by such name as may be specified in the notified order establishing it, and may hold and transfer property and shall by the said name sue and be sued.

(4) A Development Council shall perform such functions of a kind specified in the Second Schedule as may be assigned to it by the Central Government and for whose exercise by the Development Council it appears the Central Government expedient to provide in order to increase the efficiency or productivity in the scheduled industry or group of scheduled industries for which the Development

Council is established, to improve or develop the service that such industry or group of industries renders or could render to the community, or to enable such industry or group of industries to render such service more economically.

(5) A Development Council shall also perform such other functions as it may be required to perform by or under any other provision of this Act.

7. *Reports and accounts of Development Councils.*—(1) A Development Council shall prepare and transmit to the Central Government and the Advisory Council, annually, a report setting out what has been done in the discharge of its fuuctions during the financial year last completed.

(2) The report shall include a statement of the accounts of the Development Council for that year, and shall be transmitted as soon as accounts therefor have been audited, together with a copy of any report made by the auditors on the accounts.

(3) The statement of account shall be in such form as may be prescribed, being a form which shall conform to the best commercial standards, and the statement shall show the total of remuneration and allowances paid during the year to members of the Council.

(4) A copy of each such report of a Development Council, or made by the auditors on its accounts, shall be laid before Parliament by the Central Government.

8. *Dissolution of Development Councils.*—(1) The Central Government may, if it is satisfied that a Development Council should cease to continue in being, by notified order, dissolve that Development Council.

(2) On the dissolution of a Development Council under sub-section (1), the assets of the Development Council, after its liabilities, if any, are met therefrom, shall vest in the Central Government for the purposes of this Act.

9. *Imposition of cess on scheduled industries in certain cases.*—(1) There may be levied and collected as a cess for the purposes of this Act, on all goods manufactured or produced in any such scheduled industry as may be specified in this behalf by the Central Government by notified order, a duty of excise at such rate as may be specified in the notified order, and different rates may be specified for different goods or different classes of goods :

Provided that no such rate shall in any case exceed two annas per cent of the value of the goods.

Explanation.—In this sub-section, the expression "value" in relation to any goods shall be deemed to be the wholesale cash price for which such goods of the like kind and quality are sold or are capable of being sold for delivery at the place of manufacture and at the time of their removal therefrom, without any abatement or deduction whatever except trade discount and the amount of duty then payable.

(2) The cess shall be payable at such intervals, within such time and in such manner as may be prescribed, and any rules made in this behalf may provide for the grant of a rebate for prompt payment of the cess.

(3) The said cess may be recovered in the same manner as an arrear of land revenue.

(4) The Central Government may hand over the proceeds of the cess collected under this section in respect of the goods manufactured or produced by any scheduled industry or group of scheduled industries to the Development Council established for that industry or group of industries, and where it does so, the Development Council shall utilise the said proceeds—

(*a*) to promote scientific and industrial research with reference to the scheduled industry or group of scheduled industries in respect of which the Development Council is established;

(*b*) to promote improvements in design and quality with reference to the products of such industry or group of industries ;

(*c*) to provide for the training of technicians and labour in such industry or group of industries ;

(*d*) to meet such expenses in the exercise of its functions and its administrative expenses as may be prescribed.

CHAPTER III

REGULATION OF SCHEDULED INDUSTRIES

10. *Registration of existing industrial undertakings.*—(1) The owner of every existing industrial undertaking, not being the Central Government, shall, within a period of six months from the commencement of this Act register the undertaking in the prescribed manner.

(2) The Central Government shall also cause to be registered in the same manner every existing industrial undertaking of which it is the owner.

11. *Licensing of new industrial undertakings.*—(1) No person or authority other than the Central Government, shall, after the commencement of this Act, establish any new industrial undertaking, except under and in accordance with a licence issued in that behalf by the Central Government :

Provided that a Government other than the Central Government may, with the previous permission of the Central Government, establish a new industrial undertaking.

(2) A licence or permission under sub-section (1) may contain such conditions including, in particular, conditions as to the location of the undertaking and the minimum standards in respect of size to be provided therein, as the Central Government may deem fit to impose in accordance with the rules, if any, made under section 30.

(3) Nothing in this section shall apply to any industrial undertakings if the capital to be invested therein does not exceed rupees five lakhs.

12. *Revocation and amendment of licences in certain cases.*—(1) If the Central Government is satisfied, either on a reference made to it in this behalf or otherwise, that any person or authority, to whom or to which, a licence has been issued under section 11, has, without reasonable cause, failed to establish or to take effective steps to establish the new industrial undertaking in respect of which the licence has been issued within the time specified therefor or within such extended time as the Central Government may think fit to grant in any case, it may revoke the licence.

(2) Subject to any rules that may be made in this behalf, the Central Government may also vary or amend any licence issued under section 11 :

Provided that no such power shall be exercised after effective steps have been taken to establish the new industrial undertaking in accordance with the licence issued in this behalf.

13. *Licensing of substantial expansions of industrial undertakings.*—The provisions of sections 11 and 12 shall apply in relation to the effecting of any substantial expansion of an industrial undertaking as they apply in relation to the establishing of any new industrial undertaking.

Explanation.—For the purposes of this section "substantial expansion" means the expansion of an existing industrial undertaking which is of such a nature as to amount virtually to a new industrial undertaking, but does not include any such expansion as is normal to the undertaking having regard to its nature and the circumstances relating to such expansion.

14. *Procedure for the grant of licence or permission.*—Before granting any licence or permission under section 11 or section 13, the Central Government may require such officer or authority as it may appoint for the purpose, to make a full and complete investigation in respect of applications received in this behalf and report to it the result of such investigation and in making any such investigation, the officer or authority shall follow such procedure as may be prescribed.

15. *Power to cause investigation to be made into scheduled industries or industrial undertakings.*—Where the Central Government is of the opinion that—

(*a*) in respect of any scheduled industry or industrial undertaking or undertakings—

(*i*) there has been, or is likely to be, a substantial fall in the volume of production in respect of any article or class of articles relatable to that industry or manufactured or produced in the industrial undertaking or undertakings, as the case may be, for which, having regard to the economic conditions prevailing, there is no justification ; or

(*ii*) there has been, or is likely to be, a marked deterioration in the quality of any article or class of articles relatable to that industry or manufactured or produced in the industrial undertaking or undertakings, as the case may be, which could have been or can be avoided ; or

(*iii*) there has been or is likely to be a rise in the price of any article or class of articles relatable to that industry or manufactured or produced in the industrial undertaking or undertakings, as the case may be, for which there is no justification ; or

(*iv*) it is necessary to take any such action as is provided in this Chapter for the purpose of conserving any resources of national importance which are utilised in the industry or the industrial undertaking or undertakings, as the case may be ; or

(*b*) any industrial undertaking is being managed in a manner likely to cause serious injury or damage to the * * * * interests of the consumers or a substantial body thereof, for whom the articles or any class of articles manufactured or produced therein are or is intended ;

the Central Government may make or cause to be made a full and complete investigation into the circumstances of the case by such person or body of persons as it may appoint for the purpose.

16. *Powers of Central Government on completion of investigation under section 15.*—(1) If after making or causing to be made any such investigation as is referred to in section 15, the Central Government is satisfied that action under this section is desirable it may issue such directions to the industrial undertaking or undertakings concerned as may be appropriate in the circumstances for all or any of the following purposes, namely :—

(*a*) regulating the production of any article or class of articles by the industrial undertaking or undertakings and fixing the standards of production ;

(*b*) requiring the industrial undertaking or undertakings to take such steps as the Central Government may consider necessary to stimulate the development of the industry to which the undertaking or undertakings relates or relate ;

(*c*) prohibiting the industrial undertaking or undertakings from resorting to any act or practice which might reduce its or their production, capacity or economic value ;

(*d*) controlling the prices, or regulating the distribution, of any article or class of articles which have been the subject matter of investigation.

(2) Where a case relating to any industry or industrial undertaking or undertakings is under investigation, the Central Government may issue at any time any direction of the nature referred to in sub-section (1) to the industrial undertaking or undertakings concerned, and any such direction shall have effect until it is * * * varied or revoked by the Central Government.

17. *Special provisions for direct control by Central Government in certain cases.*—(1) If after a direction has been issued in pursuance of section 16, the Central Government is of opinion that the direction has not been complied with and that any industrial undertaking in respect of which the direction has been issued is being managed in a manner highly detrimental to the scheduled industry

concerned or to the public interest, the Central Government may, by notified order, authorise any person or a Development Council or any other body of persons (hereinafter referred to as the authorised person) either to take charge of the whole or any part of the undertaking in supersession of any other person or body of persons in charge thereof or to exercise with respect to the whole or any part of such undertaking such functions of control as may be provided by that order.

(2) Where the authorised person has been authorised to take charge of the industrial undertaking, he shall take all such steps as may be necessary to take into his custody or under his control all the property, effects and actionable claims to which the industrial undertaking is or appears to be entitled, and all the property and effects of the industrial undertaking shall be deemed to be in the custody of the authorised person as from the date of the notified order.

(3) Where the authorised person has been authorised to exercise any functions of control in relation to an industrial undertaking, the undertaking shall be carried on in accordance with any directions given by the authorised person in accordance with the provisions of the notified order and any person having any functions of management in relation to the undertaking or part thereof shall comply with any such directions.

(4) The authorised person shall in all cases exercise his functions in accordance with any instructions given to him by the Central Government, so, however, that he shall not have any power to give to any other person any directions under this section inconsistent with the provisions of any Act or instrument determining the functions of the authority carrying on the undertaking except in so far as may be specifically provided by the order.

(5) If at any time it appears to the Central Government on the application of the owner of the industrial undertaking or otherwise, that the purpose of the order made under this section has been fulfilled or that for any other reason, it is not necessary that the order should remain in force, the Central Government may by notified order cancel such order and on the cancellation of any such order, the control of the industrial undertaking shall vest in the owner of the undertaking.

(6) Any order made under this section shall have effect, notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

18. *Power of persons or body of persons appointed under section 15 to call for assistance in any investigation.*—(1) The person or body of persons appointed to make any investigation under section 15 may choose one or more persons possessing special knowledge of any matter relating to the investigation to assist him or it in holding the investigation.

(2) The person or body of persons so appointed shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (Act V of 1908), for the purpose of taking evidence on oath (which he or it is hereby empowered to administer) and of enforcing the attendance of witnesses and compelling the production of documents and material objects, and the person or body of persons shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (Act V of 1898).

CHAPTER IV

MISCELLANEOUS.

19. *Powers of inspection.*—(1) For the purpose of ascertaining the position or working of any industrial undertaking or for any other purpose mentioned in this Act or the rules made thereunder, any person authorised by the Central Government in this behalf shall have the right—

(*a*) to enter and inspect any premises;

(*b*) to order the production of any document, book, register or record in the possession or power of any person having the control of, or employed in connection with, any industrial undertaking; and

(*c*) to examine any person having the control of, or employed in connection with, any industrial undertaking.

(2) Any person authorised by the Central Government under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

20. *General prohibition of taking over management or control of industrial undertakings.*—After the commencement of this Act, it shall not be competent for any State Government or a local authority to take over the management or control of any industrial undertaking under any law for the time being in force which authorises any such Government or local authority so to do.

21. *Certain administrative expenses of Development Councils to be paid from moneys provided by Parliament.*—Such administrative expenses as relate to the emoluments of officers of a Development Council who are appointed by or with the approval of the Central Government, shall be defrayed out of moneys provided by Parliament.

22. *Power of the Central Government to issue directions to Development Councils.*—In the exercise of its functions under this Act, every Development Council shall be guided by such instructions as may be given to it by the Central Government and such instructions may include directions relating to the manner in which, and the purpose for which, any proceeds of the cess levied under section 9 which may have been handed over to it, shall be expended.

23. *Questions relating to amount of capital invested in an undertaking to be decided by Central Government.*—If, for the purpose of section 4 or sub-section (3) of section 11, any question arises with respect to the amount of capital invested or to be invested in an industrial undertaking, the decision of the Central Government thereon shall be final.

24. *Penalties.*—(1) Whoever contravenes or attempts to contravene, or abets the contravention of, the provisions of sub-section (1) of section 10 or of sub-section (1) of section 11, or of sub-section (1) of section 11 read with section 13, or of sub-section (3) of section 17, or of any rule the contravention of which is punishable under this section shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both, and, in the case of a continuing contravention, with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

(2) If the person contravening any of the said provisions is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(3) Notwithstanding anything contained in sub-section (2), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) " company " means any body corporate and includes a firm or other association of individuals ; and

(*b*) " director " in relation to a firm means a partner in the firm.

25. *Power to delegate.*—The Central Government may, by notified order, direct that any power exercisable under this Act by it, *other than the power specified in section 16 and sub-section (1) of section 17* may be exercised in such cases and subject to such conditions, if any, as may be specified in the order by such officer or authority (including in the said expressions any Development Council, State Government, officer or authority of the State Government) as may be specified in the direction.

26. *Previous sanction of Central Government for prosecutions.*—No prosecution for any offence punishable under section 24 shall be instituted except with the previous sanction of the Central Government.

27. *Jurisdiction of courts.*—No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under section 24.

28. *Exemption in special cases.*—The Central Government may, if satisfied that it is in the public interest so to do, exempt any scheduled industry or any industrial undertaking for such period as it may specify, from the operation of all or any of the provisions of this Act or any rules made thereunder.

29. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding, whatever, shall lie against any person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

30. *Power to make rules.*—(1) The Central Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely ;—

(*a*) the constitution of the Advisory Council and Development Councils, the term of office and other conditions of service of, the procedure to be followed by, and the manner of filling casual vacancies among, members of the Advisory Council or a Development Council ;

(*b*) the form of the statement of account to be furnished by a Development Council ;

(*c*) the intervals at which, the time within which, and the manner in which the cess leviable under section 9 shall be payable and the rebate for the prompt payment of such cess ;

(*d*) the expenses which a Development Council may meet from the proceeds of the cess levied under section 9 which may have been handed over to it :

(*e*) the appointment by or with the approval of the Central Government of any officers of a Development Council ;

(*f*) the facilities to be provided by any industrial undertaking for the training of technicians and labour ;

(*g*) the collection of any information or statistics in respect of any schedule industry ;

(*h*) the manner in which industrial undertakings may be registered under section 10 and the levy of a fee therefor ;

(*i*) the procedure for the grant or issue of licences and permissions under section 11 or section 13, the time within which such licences or permissions shall be granted or issued including, in particular, the publication of notices calling for applications and the holding of such public inquiry in relation thereto as may be necessary in the circumstances ;

(*j*) the fees to be levied in respect of licences and permissions issued under this Act ;

(*k*) the matters which may be taken into account in the granting or issuing of licences and permissions, including in particular, the previous consultation by the Central Government with the Advisory Council or any Development Council or both in regard to the grant or issue of any such licences or permission ;

(*l*) the procedure to be followed in making any investigation under this Act ;

(*m*) the conditions which may be included in any licences and permissions ;

(*n*) the conditions on which licences and permissions may be varied or amended under section 12 ;

* * * * * *

(*o*) the maintenance of books, accounts and records relating to an industrial undertaking ;

(*p*) the submission of special or periodical returns relating to an industrial undertaking by persons having the control of, or employed in connection with, such undertaking, and the forms in which, and the authorities to which, such returns and reports shall be submitted ;

(*q*) any other matter which is to be or may be prescribed under this Act ;

(3) Any rule made under this section may provide that a contravention thereof shall be punishable under section 24.

(4) All rules made under this section shall be laid for not less than seven days before Parliament as soon as possible after they are made, and shall be subject to such modifications as Parliament may make during the session in which they are so laid, or the session immediately following.

31. *Application of other laws not barred.*—The provisions of this Act shall be in addition to and not, save as otherwise expressly provided in this Act, in derogation of any other Central Act for the time being in force, relating to any of the scheduled industries.

32. *Amendment of section 2, Act XIV of 1947.*—In section 2 of the Industrial Disputes Act, 1947 (XIV of 1947),—

(*a*) in sub-clause (*i*) of clause (*a*) after the words " by a railway company " the words " or concerning any such controlled industry as may be specified in this behalf by the Central Government " shall be inserted ;

(*b*) after clause (*e*), the following clause shall be inserted, namely :—

'(*ee*) " controlled industry " means any industry the control of which by the Union has been declared by any Central Act to be expedient in the public interest ;'.

THE FIRST SCHEDULE

[*See* sections 2 and 3 (*i*)]

Any industry engaged in the manufacture or production of any of the following namely :—

(1) Aircraft.
(2) Arms and ammunition.
(3) Coal including coke and other derivatives.
(4) Iron and steel.
(5) Mathematical and scientific instruments.
(6) Motor and aviation fuel, kerosene, crude oils and synthetic oils.
(7) Salt.
(8) Ships and other vessels propelled by the agency of steam, or by electricity or other mechanical power.
(9) Sugar.

(10) Telephones, telegraph apparatus and wireless communication apparatus.

(11) Textiles made wholly or in part of cotton or jute.

(12) Automobiles, including tractors.

(13) Cement.

(14) Electric lamps and fans.

(15) Electric motors.

(16) Heavy chemicals includings fertilizers.

(17) Heavy machinery used in industry including ball and roller bearing and gear wheels and parts thereof, boilers and steam generating equipment.

(18) Locomotives and rolling stock.

(19) Machine tools.

(20) Machinery and equipment for the generation, transmission and distribution of electric energy.

(21) Non-ferrous metals including alloys.

(22) Paper including newsprint and paper board.

(23) Pharmaceuticals and drugs.

(24) Power and industrial alcohol.

(25) Rubber goods.

(26) Leather and leather goods.

* * * * *

(27) Textiles made of wool.

(28) Vanaspati and vegetable oils.

(29) Agricultural implements.

(30) Batteries, dry cells and storage.

(31) Bicycles, and parts thereof.

(32) Hurricane lanterns.

(33) Internal combustion engines.

(34) Power-driven pumps.

(35) Radio receivers.

(36) Sewing and knitting machines.

(37) Small and hand tools.

THE SECOND SCHEDULE.

[*See* section 6 (4)].

Functions which may be assigned to Development Councils :—

(1) Recommending targets for production, co-ordinating production programmes and reviewing progress from time to time.

(2) Suggestion norms of efficiency with a view to eliminating waste, obtaining maximum production, improving quality and reducing costs.

(3) Recommending measures for securing the fuller utilisation of the installed capacity and for improving the working of the industry, particularly of the less efficient units.

(4) Promoting arrangements for better marketing and helping in the devising of a system of distribution and sale of the produce of the industry which would be satisfactortoy the consumer.

(5) Promoting standardisation of products.

(6) Assisting in the distribution of controlled materials and promoting arrangements for obtaining materials for the industry.

(7) Promoting or undertaking inquiry as to materials and equipment and as to methods of production, management and labour utilisation, including the discovery and development of new materials, equipment and methods and of improvements in those already in use, the assessment of the advantages of different alternatives and the conduct of experimental establishments and of tests on a commercial scale.

(8) Promoting the training of persons engaged or proposing engagement in the industry and their education in technical or artistic subjects relevant thereto.

(9) Promoting the retraining in alternative occupations of personnel engaged in or retrenched from the industry.

(10) Promoting or undertaking scientific and industrial research into matters affecting industrial psychology and research into matters relating to the consumption or use of goods in services supplied by the industry.

(11) Promoting improvements and standardisation of accounting and costing methods and practice.

(12) Promoting or undertaking the collection and formulation of statistics.

(13) Investigating possibilities of decentralizing stages and processes of production with a view to encouraging the growth of allied small scale and cottage industries.

(14) Promoting the adoption of measures for increasing the productivity of labour, including measures for securing safer and better working conditions and the provision and improvement of amenities and incentives for workers.

(15) Advising on any matters relating to the industry (other than remuneration and conditions of employment) as to which the Central Government may request the Development Council to advise and undertaking inquiries for the purpose of enabling the Development Council so to advise, and

(16) Undertaking arrangements for making available to the industry information obtained and for advising on matters with which the Development Councils are concerned in the exercise of any of their functions.

The following Report of the Select Committee on the Bill to provide against the printing and publication of incitement to crime and other objectionable matter, was presented to Parliament on the 27th September, 1951 :—

WE, the undersigned, members of the Select Committee to which the Bill to provide against the printing and publication of incitement to crime and other objectionable matter was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

Clause 1.—We consider that it will be more appropriate to call the Act as the Press (Objectionable Matter) Act, 1951, rather than the Press (Incitement to Crime), Act, 1951. We have amended clause (1) accordingly.

Clause 2.—We think that in order to bring cyclostyled and other matters within the scope of the definition of "book", the words "or otherwise mechanically produced" should be inserted. Clause 2 (a) has been amended accordingly.

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We feel that the two expressions "press" and "printing press" are likely to cause confusion. We have accordingly omitted the definition of "printing press" and re-drafted the definition of "press" in clause 2 (g).

Clause 3.—In clause 3(iii), we have substituted the words "maintenance of public order" for the words "maintenance of law and order" as being more suitable.

We are of opinion that in clause 3, it should be specifically provided that comments or criticism of any law or of any policy or administrative action of the Government with a view to obtain its alteration or redress by lawful means, and words pointing out, with a view to their removal, matters which are producing or have a tendency to produce feelings of enmity or hatred between different classes of persons in India are not objectionable matters. We have accordingly inserted an *Explanation* to clause 3 to make our intention clear.

Clause 4.—We are of opinion that a specific provision should be made empowering sessions judges to record a warning only in suitable cases instead of demanding security. We also think that the time-limit for depositing security should be raised from fifteen to twenty-one days. We have amended the clause accordingly.

Clause 5.—In this clause also, we think twenty-one days' time should be allowed for depositing further security.

Clause 6.—We consider that it may not be necessary to forfeit the whole press in all cases. We have accordingly amended clause 6 (2) by providing that a part of the press may also be forfeited.

We consider that a provision should be made that the forfeited press or part thereof should be returned if the required security is deposited within three months from the date of the forfeiture. We have accordingly added a proviso to clause 6 (2).

Clauses 7 and 8.—We have increased the time-limit for depositing security from fifteen days to twenty-one days.

Clause 9.—We have amended clause 9(3) to empower the magistrate to forfeit a part of the press in suitable cases.

Clause 10.—We have made a slight drafting change to make our intention clear.

Clause 12.—We consider that when an officer of the post office detinsa an article on suspicion that it contains any objectionable matter and sends it to an officer of the State Government, a procedure should be laid down as to how the article should be dealt with. We have accordingly amended clause 6 (2) and inserted a new sub-clause (3).

Clause 14.—We think that a police officer making a search should forthwith submit a report to the Court. We have accordingly amended clause 14 (2).

In clause 14 (3), we have provided that a part of the press may also be forfeited in suitable cases.

Renumbered clause 17 (original clause 18).—We think that it will be more logical to put the original clause 18 before the original clause 17. We have accordingly renumbered the original clauses 18 and 17 as new clauses 17 and 18.

We consider that it should be specifically provided that the sessions judge should settle the points for determination. We have accordingly amended sub-clause (1) and made some drafting changes.

We think that though inquiries before the sessions judge may be made in the manner prescribed for conducting trials in summons cases, evidence should be recorded in full. We have accordingly amended sub-clause (2).

Renumbered clause 18 (original clause 17).—We think that a clear provision should be made for re-opening cases heard *ex parte*. We have accordingly inserted a proviso to this clause.

Clause 19.—We have re-drafted clause 19(5) to make the intention clear.

Clauses 22 and 23.—We consider that appeal should lie against all orders of sessions judges. It is also necessary to provide that any person aggrieved by an order of forfeiture made either by the State Government or by a magistrate should have the right to go to the High Court by way of an application. The High Court should also be specifically empowered to pass whatever orders it deems fit in the circumstances of the case. We have accordingly substituted two new clauses 22 and 23 for the existing clauses.

Clause 24.—We have re-drafted this clause to make the intention clear.

Clause 26.—We think that this clause should be restricted to those who sell or distribute or keep for sale or distribution any unauthorised newspaper or unauthorised news-sheet. Clause 26 (1) has accordingly been amended.

New clause 31.—We are of opinion that there should be a provision for returning the security in deposit. We think that where security has been deposited for the first time as required under section 4 or section 7 or where any further security as required under section 5 or section 8 has been deposited and no action has been taken against the press, newspaper or news-sheet under this Act for a period of two years and three years, respectively, the security in deposit should be returned. We have inserted a new clause 31 to provide for such cases.

Clause 32 (original clause 31).—The changes are merely consequential.

Clause 33 (original clause 32).—We have omitted the original clause 32 as being unnecessary.

We have substituted a new clause to provide that notwithstanding anything contained in this Act, no person shall be liable to a double penalty once under clause 6 (2) or clause 9 (3) and again under clause 25.

The Schedule.—The Rajasthan Public Security Ordinance, 1949 (XXVI of 1949) imposes certain restrictions on the press. We have accordingly added this Ordinance in the Second Schedule.

2. The Bill was published in Part II, Section 2 of the *Gazette of India*, dated the 8th September, 1951.

3. We think that the Bill has not been so altered as to require circulation under Rule 77 (4) of the Rules of Procedure and Conduct of Business and we recommend that it be passed as now amended.

M. ANANTHASAYANAM AYYANGAR
C. RAJAGOPALACHARI
B. R. AMBEDKAR
N. V. GADGIL
R. R. DIWAKAR

GOKUL LAL ASAVA
*SHREE NARAYAN DAS
N. MADHAVA RAU
RAJ KANWAR
*THAKUR DAS BHARGAVA
SATISH CHANDRA
*KRISHNA KANT VYAS
G. DURGABAI
R. K. SIDHVA
*H. N. KUNZRU
*B. SHIVA RAO
L. K. BHARATI
O. V. ALAGESAN
T. R. DEOGIRIKAR
D. K. BOROOAH
AWADHESHWAR PRASAD SINHA
*MATHURA PRASAD MISHRA
TAJAMUL HUSSAIN
TRIBHUAN NARAYAN SINGH
C. D. PANDE
*ARUN CHANDRA GUHA
V. S. SARWATE
*P. S. DESHMUKH
GOPINATH SINGH

NEW DELHI;
The 27th September, 1951.

Minutes of Dissent.

I

I have signed this Report subject to the following minute of dissent :-

2. I think that while the Government should be armed with power of declaring certain publications forfeited, where immediate action is necessary, there should, at the same time, be provision for review of all such cases by a judicial body with a view to scrutinies whether forfeitures made by the executive were judicially right or not. I note that there is provision in the Bill which will enable persons aggrieved to go to High Court. But it may not be possible for all to go to High Court. Justice should be quick and cheap and should not entail harassment. I would like to have a provision in the Bill which will provide a machinery for judicial review of actions taken under clause 10. The decision of this judicial body may be made binding subject to a right of appeal as provided in the Bill.

SHREE NARAYAN DAS.

NEW DELHI;
The 27th September, 1951.

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* Subject to a minute of dissent.

II 16

The Press (Incitement to Crimes) Bill is a measure of a very unusual kind and I cannot sufficiently deplore that such a measure as the Press (Incitement to Crimes) Bill should have been attempted to be enacted by the Government in pursuance of its undertakings and promise not to curb the liberty of press but to try to improve its position. I am sorry to note that our attemps to improve the bill substantially in the Select Committee have not succeeded though a number of changes have been made in several provisions of the Bill by the Select Committee but they are mostly in relation to the procedure to be followed in cases that may arise after this bill becomes Law. These changes are to some extent improvements on the provisions of the Bill. Unfortunately the fundamental objections to the measure remain as they were.

2. I was of the view that the Act of 1931 as amended by later Acts specially by the Act of 1932 was an emergency measure and there is no present necessity for enacting a permanent measure on the lines of 1931 Act. In 1931-32, the conditions in the country were according to the view of the then existing Government, emergent. The Act of 1931 was, therefore, for a temporary period only. In 1932 when the Civil Disobedience Movement was at its height and picketing and boycott were also rife apart from communistic and terrorists activities being also rampant, the Government went out of its way and included many kinds of incitements, encouragements and tendencies within the scope of objectionable matter for the press. Before 1932 the scope of objectionable matter for the press was never so wide. The present definition in the Bill is exceptionally wide and narrows down the freedom of expression to most undesirable extent. Under the deadening shadow of such restrictions it is hardly likely that the press will retain its independence and utility for ventilating the grievances of the public and enjoy reasonable freedom from interference so necessary for its prosperity and strength. In fact the definition of objectionable matter is the very soul of this bill and as long as it is not curtailed down to the necessary minimum, it is not likely that freedom of expression will at all be secured to the individual or to the press.

3. The present bill discriminates between the freedom of speech and the freedom of expression. It is a curious phenomena that if a person delivers a speech he cannot be prosecuted for the same unless his words can come within the purview of the definition of some offence whereas if the same speech be reported, such report would come within the definition of objectionable matter and the person reporting can be prosecuted and punished. Section 19 (1) secures freedom of speech and equally secures freedom of expression. Naturally, therefore, scope and content of both should be the same and the discrimination sought to be brought about by the bill is totally unjustified and is repugnant to the trumpeted grant of fundamental rights to the individual and the press.

4. This Bill in my humble opinion also offends against the provisions of Section 19 (1) of the Constitution relating to right of freedom of speech and expression. This Constitution First Amendment Act, 1951, clearly indicates that reasonable restrictions on the exercise of the right conferred by sub-clause 19 (1) can only be imposed in the interests of the State, friendly relations with the foreign States, decency or morality or public order. These are the only five subjects or matters in whose interest reasonable

restrictions can be imposed. Restrictions, therefore, reasonable or otherwise in respect of other matters are not countenanced by Section 19 (2). It is clear, however, that there is no reference to any friendly relations with foreign States in this bill. Any reference, therefore, in the bill to any other matter which does not concern security of the State, public order and decency or morality is irrelevant and out of place and no restrictions can be possibly placed in respect of other matters. Offences against private persons or even public servants or servants of local authorities which do not directly relate to the security of the State or public order are, therefore, out of place and cannot form the subject matter in respect of which any restrictions can be placed on the right of freedom of expression and speech.

5. Moreover only activities in relation to which such reasonable restrictions can be claimed to be imposed can be related to contempt of court, defamation or incitement of offence. If any activity falls short of any act which constitutes either contempt of court, defamation or incitement to offence it must be deemed to be out of purview of Section 19 (2) of the Constitution. If these activities or the nature of these activities were not specifically mentioned, in the clause, perhaps it could be argued that something short of them could also be included within the ambit of reasonable restrictions, but when specific mention is made of incitement to an offence, it is submitted anything short of an act constituting an incitement to offence would hardly be one for which any restrictions or reasonable restrictions could be imposed. In this view of things, encouragement or tendency to incite or to encourage or matters calculated to incite would not properly come within the mischief of the scope of reasonable restrictions sought to be imposed. In my opinion, therefore, the present definition of the objectionable matter as given in clause II offends against the provision of 19 (2) and is *ultra vires*.

The recent amendment in the Constitution has not made any act short of incitement amenable to any restrictions. And therefore every individual is free to act as he pleases provided his act does not amount to an incitement.

6. The provisions of the Bill also offend against 19 (*f*) and to an extent against 19 (g). According to the provision of 19 (*f*), a person is entitled to hold and dispose of his property and any deprivation of his property without his disposing of the same is not countenanced by law. Any forfeiture not attributable to any culpable act of the owner and without his concurrence and possibly knowledge is not justifiable. According to the provisions of this Bill the owner of the press, materials, books or documents forfeited may not even be informed or in any manner brought before any authority sanctioning forfeiture. He may not have done any act or default to incur this deprivation from his property. Yet Section 32 makes such declaration of forfeiture under the act to be conclusive against him and it is further provided in that section that no court shall ever call into question any proceedings purporting to be taken under this act. These provisions clearly imply that a person can be deprived of his property without his knowledge, without his being brought before or heard by the forfeiting authority, in fact without any fault or default on his part. And he is left with no remedy to recover his property. This is to say the least. ex-proprietary and unjust.

7. The provisions of this Bill also offend against clause (2) of Article 20 of the Constitution. Now it has been admitted that forfeiture is a kind

of punishment or penalty and Section 33 of the Bill provides against double prosecution and punishment. Unfortunately, it has not been appreciated that in many cases protracted prosecution becomes worse than the penalty itself. The words of Article 20 (2) of the Constitution run as follows:

> "No person shall be prosecuted and punished for the same offence more than once."

It is true that the proceedings under Sections 4, 5, 7 and 8 of the Bill are merely inquiries and not trials for offences. Yet forfeiture resulting therefrom has rightly been regarded in Section 33 as a penalty. Substantially proceedings under Sections 4, 5, 7 and 8 and even under Sections 6 and 9 are in the nature of prosecution, and in fairness no person against whom sufficient grounds have not been found by the Sessions Judge or the High Court for demand of security or forfeiture, should be prosecuted and punished under Section 25. But Section 33 is no bar against such prosecution. The principle of Section 403 of the Criminal Procedure Code clearly applies to such proceedings. As a matter of fact, these proceedings under Sections 4, 5, 7, and 8 even if they end in a demand of security or further security which is not returnable before 2 and 3 years constitute a penalty and in fairness no further prosecution or punishment should be possible if no forfeiture takes place as a result of these proceedings. The provisions of Section 33 therefore do not comply with the spirit of clause 20 of the Constitution.

8. As already submitted, the provisions of the Bill are totally unwarranted under the present circumstances obtaining in the country. The Hon'ble the Home Minister clearly stated in his speech in the House that this Bill was in the nature of a scare-crow and would remain a dead-letter. The Hon'ble the Home Minister in his anxiety to forge a weapon to meet any possible contingency in the future is anxious to add this weapon to his armoury, though in his view this weapon is neither necessary and will be forged only to moulder and rust away in course of time. I am sorry I am not convinced of the utility or wisdom of this paternal solicitude and exercise of *patria protestas* of the Hon'ble the Home Minister. In the House and in the Select Committee, he was requested to place any evidence in his possession which would warrant the enactment of such a measure but nothing was put forward to justify the passing of such an extraordinary law. Such measures are not to be found on the Statute book of any civilised country and the necessity for putting such a Bill on our Statute book is not appreciated. The country was expecting that the Act of 1931 shall be repealed and the press and the writers of books will be relieved from the constant fear of this sword of Damocles hanging over their heads. The country expected that by repealing the objectionable provisions of the 1931 Act, the country would be brought into line with other progressive countries, but the present attempt to perpetuate this retrograde law takes away our claim that in the matter of freedom of expression we are ahead of other countries or even in line with other countries. Apart from the Act of 1931 which is sought to be repealed, the other provisions on our Statute book amply provide for preventive action being taken against offending writers or newspapermen. Section 108 of the Criminal Procedure Code and Section 99 (*a*) to 99 (*f*) of the same Code provide ample safeguards for us. They are part of the ordinary law of the land and are sufficiently preventive.

9. In regard to preventive measures, the accepted policy of legislation is that while it is the policy of law to prevent certain crimes being committed, the life of an ordinary citizen would become unbearable if this preventive

legislation was allowed to run riot and provide for prevention of commission of good many crimes. If the life of an ordinary individual was so strictly regulated and regimented that no liberty to behave in any other than regulated way was allowed, life would lose its charm and reduce the individual to an automaton. In all civilised countries therefore preventive legislation is limited to certain crimes only. Sections 107, 108 and 110 of the Criminal Procedure Code define the proper limits of such preventive legislation. The expansion of such limits is not justifiable and the expansion of the scope of such limits is not only unjustifiable but is very objectionable. Sub-clause 3, except in regard to maintenance of public order, sub-clauses 4, 5, 7 and 8 should be totally eliminated and in regard to the rest of the clauses incitement should only be regarded as the proper subject matter for imposition of reasonable restrictions.

10. The provision of forfeiture in the Bill provides a most drastic punishment. In principle preventive measures should not be punitive. But forfeiture is nothing but punitive. Forfeiture deprives a man of his very means of livelihood and puts such an economic strain that it is unlikely that in ordinary circumstances any person would survive on the economic plane and be able to resume his normal work. An order for forfeiture against the person who is not the owner of the property is still more unjustifiable as it penalises an innocent person. It is true that by way of punishment forfeiture is very effective as the cutting of the tongue of any person who is guilty of defamation or sedition would be. In olden times the hands of the thief were cut off. In this case the end does not justify the means. The remedy proposed is out of all proportions to the malady. It was suggested by the Press Inquiry Committee that a temporary order of closure of press for a reasonable period would amply meet the ends of justice. Considering that printing of objectionable matter does not constitute an offence under the ordinary law of the land and the remedy applied is of a preventive nature, it is really hard to impress into service the provision of forfeiture for prevention. Under Sections 107, 108 and 110 of the Criminal Procedure Code, if the security is not provided the person proceeded against undergoes imprisonment only. If the remedy of temporary closure of the printing press is not considered enough, imprisonment may also be considered along with or in substitution of temporary closure.

11. In my humble opinion the provisions of Section 99 (*a*) to 99 (*f*) provide better and more effective remedy from the point of view of the general interest of the country than the present provision of inquiry by a Sessions Judge with the aid of jury if the respondent claims it. The judicial safeguard in cases covered by Section 99 (*a*) was a provision of appeal before special Bench of three High Court judges which benefit will probably be denied to the respondents under the provisions of this Bill. Previously the initial action was taken by the State Government which under the present set up would mean the popular Ministry and the present State Government is certainly more responsible and can be expected to exercise more restraint than the previous State Governments. Anyhow, the judicial safeguard of scrutiny by a Sessions Judge in my humble opinion is not so weighty as the previous safeguard of scrutiny by a special Bench of High Court. Ordinarily speaking, this inquiry by a Sessions Judge will consist of interpretation of documents printed by the respondents. The original task of assessing the printed matter in the initial stages by the present Ministries and judicial appraisment by a Bench of three judges of the High Court is certainly a more

favourable provision to the respondents than the initial assessment by a competent authority and scrutiny by a Sessions Judge and further appraisal by possibly one High Court judge. The provision for jury could be well understood if there is a proper trial. Here there is a more inquiry and the glamour of jury, need not deceive any one. Mereover such a provision unless the Government contemplates the provision of trial by jury in all other cases is very objectionable as being discriminatory. This provision also discriminates between persons who can afford the luxury of having a competent counsel and trial by jury and other respondents who are too poor to afford to have this luxury in whose cases even a warrant case trial has not been agreed to. The trial in the summons case is different from a trial in the warrants case.

In regard to the summoning of defence witnesses the powers and duties of the court are different in summons cases as compared to warrant cases as also the right of cross-examination as well as other important matters relating to the framing of charge, etc. The disparity between the provision of a jury and inquiry according to the procedure relating to Sessions cases and the provision of a Summons case trial is too great and in fairness either all accused should have been given the benefit of procedure of warrant cases or benefit of procedure of Sessions case with the aid of jury. There were many other points urged before the Select Committee which were repeated. They will in due course form the subject matter of amendments and need not be detailed here. A provision for putting a ceiling on the amount of security demanded was also suggested but unfortunately it did not find favour with the Select Committee. Similarly a provision for limiting the life of this Bill for one year was not accepted.

12. The period of 2 and 3 years mentioned in Section 31 was also requested to be reduced but even such a simple request was not accepted.

13. This may be specifically mentioned that in Section 26 there may be no *mens rea* or intention and yet a man may be guilty. In fact this non-insistence on proving *mens rea* or intention, knowledge or desire is the most objectionable feature of the entire Bill. The gravamen of the charge consists in the fact that this Bill does not care to provide in respect of all offences and matters which involve penalty, that bad intention, knowledge or desire should play some part in determining whether a man should be punished. In this Bill these elements which go to constitute a crime have been entirely eschewed, with the result that there is likelihood or possibility of innocent men being penalised and punished. It is true that in a country where traditions have not grown fully and where people are not habituated to exercise restraints which grow in time as a result of free institutions, the provisions of law relating to prevention of crimes pertaining to the security of the State and promotion of hatred among the different classes may not be the same as in other places where conditions of life are different. Yet unless a case is made out which would warrant the imposition of such unjustifiable restrictions as are contained in the present Bill, it is not wise to distrust the press and the literate public. Taken as a whole, the press is loyal and there are very strong elements in the country who resent all seditious, and defamatory writings. There is enough of goodwill in the country for the Government and the gutter press is not being seriously taken by the people in general. The ordinary law of the land is quite ample to bring to book the printers and writers of offensive documents in case they

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transgress the limits of relevant provisions of the law. If the circumstances of the country demanded that our laws should be different in this respect from the laws in other countries, I would certainly agree to necessary changes in the law required to cope with the evil, but fortunately no such evil, according to the view of the Honourable the Home Minister, exists and I, therefore, humbly suggest that the objectionable portions of this Bill be dropped. It is in the atmosphere of goodwill, public co-operation and fearlessness that independent press potent enough to exercise its proper influence can subsist. An atmosphere of constant fear and suspicion without adequate cause is bound to affect adversely innocent and public spirited journalist and pressmen whose existence in every Democratic Country is a source of strength and stability of public opinion.

NEW DELHI ; THAKUR DAS BHARGAVA

The 27th September 1951.

III

I have signed the Select Committee Report subject to the following note of dissent :—

1. While I agree that objectionable writings which have the object of undermining the security of state by violence or which create enmity between different communities or which are grossly indecent, obscene or defamatory should be punished I am opposed to the principle of demanding security instead of prosecuting the editor or writer of the paper or book in a regular court of law.

2. With the above object in view there is, even if a recourse to security, no need for keeping sub-clauses (iii), (iv), (v), (vii) into clause 3, I also feel that 'communities' should be substituted in place of 'Clauses' in sub-clause (vi). There are judgments of Allahabad High Court and Oudh Chief Court where it has been held that preaching abolition of Zamindari and saying that a day will come when tenants will be master of their fields come within mischief of section 153A of I.P.C, which has been reproduced in this Bill. I also feel that 'scurrilous' should have been defined.

3. I am strongly of the opinion that a maximum amount of security should have been provided.

4. Clauses 10, 11, 13, 14 give unlimited right to the executive to cause loss and harassment to newspapers and printing presses and even after the appeal provided against these orders there is no provision for the compensation for the loss that will be caused to newspapers by such forfeitures and searches. Even if these clauses are maintained in some form there must be a provision for compensation to aggrieved party which has been adjudged so by the Sessions or High Court.

5. The time limit of two years for the refund of security is too much and will defy the object. It must not be more than six months.

6. I feel that all proceedings connected with press should originate from a Sessions Court and not from Magistrate's Courts in execution of orders under discretionary powers of Government. There must be express provision for compensation to aggrieved party in cases of loss due to recklessness or carelessness of the Police or Postal Officers.

22.

The Bill as emerges out of the Select Committee is to my mind not in keeping with undertakings given in the objects of the Bill and needs further modification.

NEW DELHI ; KRISHNA KANT VYAS

The 27th September 1951.

IV

The changes made in the Bill by the Select Committee do not affect our objections to it which are of fundamental character. It is nct enough for Government to say that in some important respects the Bill in an improvement on the Press (Emergency Powers) Act, 1931. It must show that it is necessary to have a special Press Law permanently on the Statute book. The Press (Emergency Powers) Act was passed as a temporary measure in 1931 and was made permanent in 1935. Since then the political situation has changed completely. While formerly the people were actively or passively against the Government, to-day they are as a whole behind it in its efforts to maintain law and order. The control of the Press, which was considered essential by the British Government for the continuance of its rule, should not be regarded in the same light by our own Government whose interests are identical with those of the people. Nothwithstanding the demand made in the debate in Parliament for concrete evidence in support of the Bill, no material was placed before it to justify the need for such legislation. Nor, in spite of the repetition of the demand in the Select Committee, was such material placed before the Committee. Government's view seems to be that as we have special press law at present, it is not reasonable to question the need for its continuance and to withhold from it the praise that is due to it for having softened its rigour. As Government has not even made an effort to show that the present circumstances justify a permanent measure of this kind, we think we are justified in concluding from its attitudes that the measure is unnecessary.

2. Even if an emergency exists necessitating the control of the Press, it may be presumed that it will last for a short time only, unless the Government thinks that it has lost the support of the people. A temporary measure should therefore suffice to enable Government to deal with the situation. We accordingly proposed that the life of the Bill should be limited to two years, but we deeply regret that this was not accepted by the Select Committee.

3. The most important clause in the Bill is clause 3 which defines "objectionable matter". Many of its provisions have been reproduced, textually or in substance, from the Press Emergency Powers Act. The modifications made in the Select Committee do not affect the scope of the clause which is too wide. A newspaper or press may be proceeded against, not merely for printing or publishing any matter that incites or encourages a person to resort to violence or to commit an offence, but also when the matter in question is supposed to have such a tendency. The Bill thus goes further than the Indian Penal Code which punishes the commission of, and the attempt to commit, an offence, but not things that may be supposed to have a tendency to incite the commission of an offence.

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4. There are some other provisions in the Bill which in our opinion are not satisfactory. But it is not necessary to deal with them here. We reserve to ourselves the liberty to move such amendments as we consider necessary in regard to these provisions.

NEW DELHI,
The 27th September 1951.

H. N. KUNZRU,
B. SHIVA RAO.

V

I have signed this Report subject to the following minute of dissent :—

2. That in clause 3, dealing with "Objectionable matters", only sub-clause I, II, IV and VI should have been retained with suitable modifications. The rest of the sub-clauses, dealing with offences for which there already exist provisions in the Indian Penal Code, are not only unnecessary but are vague and sweeping as well. In sub-clause III, "interference" with "the administration of the law" or "with the administration of laws regulating the supply or distribution of food or other essential commodities or services" are so vague and sweeping that any strong criticism of maladministration may land the newspaper concerned in danger. Similarly an offence described in sub-clause VII is, at the worst, only an offence against the individual, which this Bill seeks to turn into an offence against the State.

3. In my opinion, the word "tend to", wherever it occurs in clause III, should have been replaced by the words "are calculated to" as was agreed to by the Select Committee at an earlier stage of its deliberations. An article in a newspaper, merely eulogising the achievements of, say, the heroes of the First War of the Indian Independence of 1857 may be shown to contain tendencies of support and incitement to violence. Also in my opinion, for the word "classes" in sub-clause VI, the word "communities" should have been substituted, because the avowed aim of the Government is to suppress communalism and not any struggle of the down-trodden and exploited classes to assert their natural right to an honourable place in society, which today, even after attainment of freedom, is denied to millions, particularly the toiling millions, of this land.

4. In regard to clause 4, dealing with the demand of security, I strongly feel that a ceiling must have been fixed. In the Press (Emergency Powers) Act of 1931, which the British Government had enacted during the Civil Disobedience Movement and which this Bill seeks to liberalise there was a ceiling which went up to Rs. 10,000 in the second instance. Absence of a ceiling and the provision for specifying the amount of security by the Executive at the time of making the complaint makes the law, when enacted, to serve in my opinion. The provision for security should only seek to prevent crimes and not prevent publication of the offending newspapers.

5. My most serious objection relates to the provision for forfeiture of the press itself. This is a penal provision to come into operation against those who commit offences under clauses 6, 9 and 14. There is already a separate provision for penalties under clause 25 of this Bill to be imposed on the offending persons and I would have no objection if the penalties proposed were made much more severe, more so in the matter of fine than they are at present.

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6. Let us not forget that Freedom of Expression remains guaranteed as a Fundamental Right of the citizen by our Constitution, even after the amendment of Article (19) 2, subject to "reasonable restrictions" being imposed in regard to the security of the State, maintenance of public order and morality and incitement to offences. Hence any restrictions sought to be imposed on the Freedom of Expression must be reasonable. And provision for forfeiture of the press, which amounts to confiscation of property, transgresses reasonableness in my judgment. It becomes all the more appalling when under the existing laws there is no provision even in proven cases of black-marketing, for the confiscation of the ill-gotten properties of the black-marketers.

NEW DELHI; MATHURA PRASAD MISHRA.

The 27th September, 1951.

VI

I am signing this report subject to this minute of dissent. I can concede that immediately after the transfer of power socio-political conditions being liable to be unstable, the Government may need some powers to control the newspapers. But I do not think conditions in our country are such as to require a measure like this.

2. The definition of objectionable matters seems to me to be unnecessarily wide. As for the provision of demanding security, I feel, a maximum should have been fixed. In the present Press Emergency Act of 1931, such ceiling has been fixed at Rs. 10,000. Moreover, the competent authority has been directed to specify the amount of security that may be demanded of the printing press or of the paper. This appears to me to be a sort of interference with the judiciary.

3. I feel, the provision for forfeiture of the press should not have been put. I also do not agree with the provision that no new person can take a fresh declaration of the press in case the old keeper has failed to pay the security. This is in a way a ban on *bona fide* purchase or sale of the business.

4. Ordinary printing press—commonly known as job-printer—has been placed in unnecessary hardship. And this is due to an excessive anxiety of the Government to fight a menace which, at present, is of no considerable dimension. I feel even retaining the necessary authority to be used in case of emergency, the vigours of the Bill could have been appreciably mollified. I do not like to mention all the points in this note.

NEW DELHI; ARUN CHANDRA GUHA

The 27th September, 1951.

VII

I regret I do not feel satisfied with the provisions of the Bill as it has finally emerged from the Select Committee. Apart from the constitutional objections raised by Pandit Thakur Das Bhargava in his note of dissent, some at least of which have considerable force behind them, I would have been glad if the Bill was further modified so as to bring the erring press

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within the purview of its provision after giving it a fair opportunity to mend itself. I do not like a mere "tending to" do various things in clauses 3 (i) (ii) (vi) being made punishable nor do I think the solitary "Explanation" in clause 3 would give adequate protection to legitimate criticism by presses not in the good books of Government. On the other hand the addition of clause 31 is a welcome improvement on the original Bill.

NEW DELHI; P. S. DESHMUKH.

The 27th September, 1951.

THE PRESS (OBJECTIONABLE MATTER) BILL, 1951.

(AS AMENDED BY THE SELECT COMMITTEE)

(Words sidelined or underlined indicate amendments suggested by the Committee; asterisks indicate omissions)

BILL NO. 73 OF 1951

A Bill to provide against the printing and publication of incitement to crime and other objectionable matter.

BE it enacted by Parliament as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Press (Objectionable Matter) Act, 1951.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(*a*) "book" includes every volume, part or division of a volume, pamphlet and leaflet, in any language, and every sheet of music, map, chart or plan separately printed, *lithographed or otherwise mechanically produced;

(*b*) "Code" means the Code of Criminal Procedure, 1898 (Act V of 1898);

(*c*) "competent authority" means any officer empowered in this behalf by a general or special order of the State Government;

(*d*) "document" includes also any painting, drawing or photograph or other visible representation;

(*e*) "newspaper" means any periodical work containing public news or comment on public news;

(*f*) "news-sheet" means any document other than a newspaper containing public news or comments on public news;

(*g*) "press" means a printing press, and includes all plant, machinery, duplicators, types, implements and other materials used for the purpose of, or in connection with, printing or multiplying documents;

(*h*) "Press Registration Act" means the Press and Registration of Books Act, 1867 (XXV of 1867);

* * * * *

(*i*) "sessions judge", in relation to the presidency town of Calcutta or of Madras, means the chief presidency magistrate;

(*j*) "unauthorised newspaper" means—

(i) any newspaper in respect of which security has been required under this Act but has not been furnished as required, or

(ii) any newspaper which is published without conforming to the rules laid down in section 5 of the Press Registration Act;

(*k*) "unauthorised news-sheet" means any news-sheet in respect of which security has been required under this Act but has not been furnished as required;

(*l*) "undeclared press" means any press other than a press in respect of which there is for the time being a valid declaration under section 4 of the Press Registration Act.

3. *Objectionable matter defined.*—In this Act, the expression "objectionable matter" means any words, signs or visible representations which—

(*i*) incite or encourage or tend to incite or encourage, any person to resort to violence or sabotage for the purpose of overthrowing or undermining the Government established by law in India or in any State thereof or its authority in any area; or

(*ii*) incite or encourage, or tend to incite or encourage, any person to commit murder, sabotage or any offence involving violence for

(*iii*) incite or encourage any person to interfere with the administration of the law or with the maintenance of public order or with the administration of laws regulating the supply and distribution of food or other essential commodities or services; or

(*iv*) tend to seduce any member of any of the armed forces of the Union or of the police forces from his allegiance or his duty, or prejudice the recruiting of persons to serve in any such force or prejudice the discipline of any such force;

(*v*) are calculated to induce a public servant or servant of a local authority to do any act, or to forbear or delay to do any act, connected with the exercise of his public functions otherwise than according to law; or

(*vi*) tend to promote feelings of enmity or hatred between different classes of persons in India; or

(*vii*) are calculated to put any person in fear and thereby to induce him to deliver to any person any property or valuable security or to do any act which he is not legally bound to do or to omit to do any act which he is legally entitled to do; or

(*viii*) are grossly indecent, or are scurrilous or obscene.

Explanation.—Comments expressing disapprobation or criticism of any law or of any policy or administrative action of the Government with a view to obtain its alteration or redress by lawful means, and words pointing out, with a view to their removal, matters which are producing, or have a tendency to produce, feelings of enmity or hatred between different classes of persons in India, shall not be deemed to be objectionable matter within the meaning of this section.

CHAPTER II

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PRINTING AND PUBLICATION OF OBJECTIONABLE MATTER

4. *Power to demand security from presses in certain cases.*—Whenever upon complaint made to it in writing by the competent autority and inquiry made in the manner hereinafter provided, a sessions judge is satisfied—

(*a*) that any *press kept within the local limits of his jurisdiction is used for the purpose of printing or publishing any news-paper, news-sheet, book or other document containing objectionable matter, and

(*b*) that there are sufficient grounds for demanding security from the keeper of the press under this section,

the sessions judge shall, by order in writing, direct the keeper of the press to deposit as security within twenty-one days from the date of the order, such amount as the court may think fit to require in money or the equivalent thereof in Government securities as the person making the deposit may choose:

Provided that if, having regard to all the circumstances, the sessions judge is satisfied that the requirements of the case will be met by a warning, he may, instead of demanding security, record such warning.*

5. *Power to forfeit security or demand further security.*—Whenever upon complaint made to it in writing by the competent authority and inquiry made in the manner hereinafter provided the sessions judge is satisfied—

(*a*) that any *press in respect of which any security has been ordered to be deposited under section 4 or under this section is thereafter used for the purpose of printing or publishing any news-paper, news-sheet, book or other document containing objectionable matter, and

(*b*) that there are sufficient grounds for making an order under this section,

the sessions judge shall, by order in writing,—

(*i*) declare such security as has been deposited or any portion thereof to be forfeited to the Government, or

(*ii*) direct the keeper of the press to deposit, within twenty-one days from the date of the order, such further security as the court may deem fit to require,

and may also, in either case, declare all copies of the news-paper, news-sheet, book or other document containing such objectionable matter, wherever found in India, to be forfeited to the Government.

6. *Consequences of failure to deposit security as required under section 4 or section 5.*—(1) Where the keeper of a press is required under section 4 or section 5 to deposit any amount as security and the deposit is not made within the time allowed,—

(*a*) the declaration made by the keeper of the press under the Press Registration Act shall be deemed to be annulled;

(*b*) notwithstanding anything contained in the Press Registration Act, neither the said keeper of the press nor any other person shall make, or be allowed to make, a fresh declaration before a magistrate

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under that Act in respect of the press unless he deposits with the magistrate as security the same amount as was required of the keeper of the press under section 4 or section 5, as the case may be, in money or the equivalent thereof in Government securities as the person making the deposit may choose; and

(*c*) the press shall not be used for the printing or publishing of any newspaper, news-sheet, book or other document until the deposit has been made.

(2) Where any *press is used in contravention of clause (*c*) of sub-section (1), any magistrate may, on a complaint in writing made to him in this behalf by the competent authority, direct the keeper of the press to show cause why it should not be forfeited to Government, and after hearing him and on being satisfied that there are grounds for passing the order, declare the press or any part thereof to be forfeited to Government:

Provided that the press or part thereof so forfeited shall not be disposed of within a period of three months from the date of the order of forfeiture, and if the keeper of the press deposits the required amount within the aforesaid period, the press or part thereof, as the case may be, shall be returned to the keeper of the press.

7. *Power to demand security from newspapers and news-sheets in certain cases.*—Whenever upon complaint made to it in writing by the competent authority and inquiry made in the manner hereinafter provided, a sessions judge is satisfied—

(*a*) that a newspaper or news-sheet published within the local limits of his jurisdiction contains any objectionable matter, and

(*b*) that there are sufficient grounds for demanding security from the publisher of the newspaper or news-sheet under this section,

the sessions judge shall, by order in writing, direct the publisher of the newspaper or news-sheet to deposit as security within twenty-one days from the date of the order, such amount as the court may think fit to require in money or the equivalent thereof in Government securities as the person making the deposit may choose.

8. *Power to forfeit security or demand further security.*—Whenever upon complaint made to it in writing by the competent authority and inquiry made in the manner hereinafter provided, the sessions judge is satisfied—

(*a*) that any newspaper or news-sheet in respect of which any security has been ordered to be deposited under section 7 or under this section thereafter publishes any objectionable matter, and

(*b*) that there are sufficient grounds for making an order under this section,

the sessions judge shall, by order in writing,—

(i) declare such security as has been deposited or any portion thereof to be forfeited to the Government, or

(ii) direct the publisher of the newspaper or news-sheet to deposit within twenty-one days from the date of the order such further security as the court may deem fit to require,

and may also, in either case, declare all copies of the newspaper or news-sheet containing such objectionable matter, wherever found in India, to be forfeited to the Government.

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9. *Consequences of failure to deposit security as required under section 7 or section 8.*—(1) Where the publisher of a newspaper is required under section 7 or section 8 to deposit any amount as security and the deposit is not made within the time allowed,

(*a*) the declaration made by the publisher of the newspaper under section 5 of the Press Registration Act shall be deemed to be annulled ; and

(*b*) notwithstanding anything contained in the Press Registration Act, no person shall make, or be allowed to make, a fresh declaration before a magistrate under section 5 of that Act as publisher of that newspaper or any other newspaper which is the same in substance as that newspaper, unless he deposits with the magistrate as security the same amount as was required of the publisher of the news-paper under section 7 or section 8, as the case may be, in money or the equivalent thereof in Government securities as the person making the deposit may choose.

(2) Where a deposit is required from the publisher of a newspaper or news-sheet under section 7 or section 8, no * press shall, after the expiry of the time allowed to make the deposit, be used for the printing or publishing of such newspaper or news-sheet until the deposit has been made.

(3) Where any * press is used in contravention of sub-section (2), any magistrate may, on a complaint in writing made to him in this behalf by the competent authority, direct the keeper of the press to show cause why it should not be forfeited to Government, and, after hearing him and on being satisfied that there are grounds for passing the order, declare the press or any part thereof to be forfeited to Government.

10. *Power of Government to declare certain publications forfeited.*—The State Government may, on the certificate of the Advocate-General or other principal law officer of the State or of the Attorney-General of India that any issue of a newspaper or news-sheet or any book or other document, wherever made, contains any objectionable matter, by notification in the Official Gazette, stating the grounds for the order, declare that every copy of such issue of the newspaper or news-sheet or of such book or document shall be forfeited to the Government.

11. *Power to detain packages containing certain publications when imported.*—The chief customs officer or other officer authorised by the State Government in this behalf may detain any package brought whether by land, sea or air into the territories to which this Act extends in which he suspects there are newspapers, news-sheets, books or other documents containing objectionable matter, and shall forthwith forward copies of any newspapers, books or other documents found therein to such officer as the State Government may appoint in this behalf to be disposed of in such manner as the State Government may direct.

12. *Prohibition of transmission by post of certain documents.*—(1) No newspaper, news-sheet, book or other document which has been declared to be forfeited under any of the provisions of this Act, and no unauthorised newspaper or unauthorised news-sheet, shall be transmitted by post.

(2) Any officer in charge of a post office or authorised in this behalf by the Postmaster-General may detain in course of transmission by post any

article, other than a letter, which he suspects to contain any such document as is mentioned in sub-section (1), and shall deliver all such articles to such officer as the State Government may appoint in this behalf.

* * * * *

(3) If the officer to whom any article is delivered under sub-section (2) is satisfied that the article contains any such document as is mentioned in sub-section (1), he may pass such orders as to the disposal of the article and its contents as he deems proper, and if he is not so satisfied, he shall return the article to the post office for transmission to the addressee.

13. *Power to seize and destroy unauthorised news-sheets and news-papers.*—(1) Any police officer or any other person empowered in this behalf by the State Government may seize any unauthorised newspaper or unauthorised news-sheet.

(2) Any presidency magistrate, district magistrate, sub-divisional magistrate or magistrate of the first class may, by warrant authorise any police officer, not below the rank of sub-inspector, to enter upon and search any place where any stock of unauthorised newspapers or news-sheets may be, or may be reasonably suspected to be, and such police officer may seize any documents found in such place which in his opinion are unauthorised newspapers or unauthorised news-sheets.

(3) All documents seized under sub-section (1) shall be produced as soon as may be before a presidency magistrate, a district magistrate, a sub-divisional magistrate or a magistrate of the first class and all documents seized under sub-section (2) shall be produced as soon as may be before the court of the magistrate who issued the warrant.

(4) If, in the opinion of such magistrate or court, any of such documents are unauthorised newspapers or unauthorised news-sheets, the magistrate or court may cause them to be destroyed, but if, in the opinion of such magistrate or court, any of such documents are not unauthorised newspapers or unauthorised news-sheets, such magistrate or court shall dispose of them in the manner provided in sections 523, 524 and 525 of the Code.

14. *Power to seize and forfeit undeclared presses producing unauthorised newspapers and unauthorised news-sheets.*—(1) Where a presidency magistrate, district magistrate or sub-divisional magistrate, has reason to believe that an unauthorised newspaper or unauthorised news-sheet is being produced from an undeclared press within the local limits of his jurisdiction, he may, by warrant, authorise any police officer not below the rank of sub-inspector to enter upon and search any place where such undeclared press may be, or may be reasonably suspected to be and if in the opinion of such police officer any press found in such place is an undeclared press and is used to produce an unauthorised news-paper or unauthorised news-sheet, he may seize such press and any documents found in the place which in his opinion are unauthorised newspapers or unauthorised news-sheets.

(2) The police officer shall forthwith make a report of the search to the Court which issued the warrant and shall produce before such Court as soon as may be all property seized:

Provided that where any press which has been seized cannot be readily removed, the police officer may produce before the court only such parts thereof as he may think fit.

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(3) If such court after such inquiry as it may deem requisite is of opinion that a press seized under this section is an undeclared press which is used to produce an unauthorised newspaper or news-sheet, it may, by order in writing, declare the press or any part thereof to be forfeited to Government, but if after such inquiry the court is not of such opinion, it shall dispose of the press in the manner provided in sections 523, 524 and 525 of the Code.

(4) The court shall deal with the documents produced before it under this section in the manner provided in sub-section (4) of section 13.

CHAPTER III

PROCEDURE

Inquiry before Sessions Judges

15. *Contents of complaint.*—Every complaint to the sessions judge under this Act against any person (hereinafter referred to as the respondent) shall state or describe the objectionable matter in respect of which the complaint is made, and where it is desired that security should be demanded from the respondent, shall specify the amount of security which, in the opinion of the State Government, should be so demanded.

16. *Issue of notice.*—On receipt of a complaint from the competent authority, the sessions judge shall issue notice thereof to the respondent calling upon him to appear and show cause on a date to be specified in the notice why such action as may be appropriate in the circumstances of the case should not be taken against him under this Act.

17. *Procedure for inquiries.*—(1) When the respondent appears before the sessions judge in compliance with a notice under section 16, the sessions judge shall settle the points for determination and proceed to inquire into the complaint, * * * and after taking all such evidence * * * as may be produced and after hearing the parties, pass such orders under this Act as he may think fit.

(2) Any inquiry under this Act shall be made as nearly as may be practicable in the manner prescribed for conducting trials * * * in summons cases by magistrates under the Code except that evidence shall be recorded in full.

18. *Non-appearance of respondent.*—If upon the day appointed for the appearance of the respondent or any day subsequent thereto to which the inquiry may be adjourned, the respondent does not appear, the sessions judge shall proceed to hear the complaint and take all such evidence, if any, as may be produced in support of the complaint and pass such orders under this Act as he may think fit:

Provided that if, on an application made by the respondent within fifteen days of the date of the *ex parte* order, the sessions judge is satisfied that there are sufficient grounds he may set aside the order and make a fresh inquiry into the complaint.

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19. *Jury for inquiry.*—(1) If in any inquiry before a sessions judge under this Act the respondent claims to have the matter determined with the aid of a jury, the provisions hereinafter contained shall apply.

(2) Every such jury shall consist of five persons and shall be chosen from the persons summoned to act as such from the list of persons prepared under sub-section (3).

(3) Such officer as may be appointed by the State Government in this behalf shall prepare and make out in alphabetical order a list of persons residing within the State who by reason of their journalistic experience or of their connection with printing presses or newspapers or of their experience in public affairs are qualified to serve as jurors.

(4) The list shall contain the name, the place of residence and occupation of every such person.

(5) In so far as the provisions of parts C, E, F and K of Chapter XXIII of the Code can be made applicable consistently with the provisions of this Act, the provisions of the said parts C, E and F shall apply to all inquiries under this section, and the provisions of the said part K shall apply to the preparation and revision of lists of jurors under this section.

20. *Conclusion of inquiry made with the aid of a jury.*—(1) Where in an inquiry made with the aid of a jury the sessions judge does not think it necessary to express disagreement with the opinion of the jurors or a majority of the jurors, he shall pass orders accordingly.

(2) If in any such inquiry the sessions judge disagrees with the opinion of the jurors and is of opinion that it is necessary for the ends of justice to submit the case to the High Court, he shall submit the case accordingly recording the grounds for his opinion.

(3) In dealing with the case so submitted, the High Court may exercise any of the powers conferred on a sessions judge by this Act.

21. *Admissibility of previous and subsequent issues.*—In any inquiry before a sessions judge with reference to any newspaper or news-sheet any previous or subsequent issue of such newspaper or news-sheet may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations in respect of which the complaint is made.

Appeal and Application to High Court.

22. *Appeal to High Court against orders of sessions judges.*—Any person agaist whom an order is passed by a sessions judge under section 4, section 5, section 7, or section 8 may, within sixty days of the date of such order, prefer an appeal to the High Court, and upon such appeal, the High Court may pass such orders as it deems fit confirming, varying or reversing the order appealed from, and may pass such consequential or incidental orders as may be necessary.

23. *Application to High Court against orders of forfeiture.*—Any person aggrieved by an order of forfeiture passed by the State Government under section 10 or by a magistrate under sub-section (2) of section 6 or sub-section (3) of section (9) may, within sixty days of the date of such order, apply to the High Court to set aside such order, and upon such application, the High Court may pass such order as it deems fit confirming, varying or reversing the order of the State Government or the magistrate, and may pass such consequential or incidental orders as may be necessary.

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24. *Procedure in High Court.*—Every High Court may frame rules to regulate the procedure in respect of cases submitted to it under section 20, appeals under section 22, and applications under section 23, costs in such proceedings and the execution of orders passed therein, and until such rules are framed, the practice of such High Court in proceedings in respect of reference, appeal and revision shall apply, in so far as may be practicable, to such cases, appeals and applications.

CHAPTER IV

PENALTIES

25. *Penalty for keeping press or publishing newspaper without making deposit.*—(1) Whoever keeps in his possession a press which is used for the printing of books or papers without making a deposit as required under section 4 or section 5 shall be punishable with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both,

(2) Whoever publishes any newspaper or news-sheet without making a deposit as required under section 7 or section 8 or publishes such newspaper or news-sheet knowing that such security has not been deposited shall be punishable with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

26. *Penalty for disseminating unauthorised newspapers and unauthorised news-sheets.*—(1) Whoever * * * sells or distributes * * * or keeps for sale or distribution * * * any unauthorised newspaper or unauthorised news-sheet shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) Notwithstanding anything contained in the Code, any offence punishable under sub-section (1) and any abetment of any such offence shall be cognizable.

CHAPTER V

MISCELLANEOUS

27. *Service of notices.*—Every notice under this Act shall be served in the manner provided for the service of summonses under the Code:

Provided that if service in such manner cannot, by the exercise of due diligence, be effected, the serving officer shall, where the notice is directed to the keeper of a press, affix a copy thereof to some conspicuous part of the place where the press is situate, as described in the keeper's declaration under section 4 of the Press Registration Act, and where the notice is directed to the publisher of a newspaper, to some conspicuous part of the premises where the publication of such newspaper is conducted, as given in the publisher's declaration under section 5 of that Act, and thereupon the notice shall be deemed to have been duly served.

28. *Issue of search warrants in certain cases.*—(1) Where any * press is, or any copies of any newspaper, news-sheet, book or other document are,

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declared forfeited to Government under this Act, the State Government may direct a magistrate to issue a warrant empowering any police officer, not below the rank of sub-inspector, to seize and detain any property ordered to be forfeited and to enter upon and search for such property in any premises—

(*a*) where any such property may be, or may be reasonably suspected to be, or

(*b*) where any copy of such news-paper, news-sheet, book or other document is kept for sale, distribution, publication or public exhibition or is reasonably suspected to be so kept.

(2) Without prejudice to the provisions contained in sub-section (1), where any newspaper, news-sheet, book or other document is declared forfeited to Government, it shall be lawful for any police officer to seize the same wherever found.

29. *Conduct of searches.*—Every warrant issued under this Act, shall, so far as it relates to a search, be executed in the manner provided for the execution of search warrants under the Code.

30. *Power to transfer cases.*—Whenever is appears to the High Court or, as the case may be, the Central Government that the transfer of any particular inquiry under this Act from one sessions judge to another will be convenient or will promote the ends of justice, such transfer may be directed—

(*a*) where both the sessions judges are subject to the appellate jurisdiction of a High Court, by that High Court ; and

(*b*) in any other case by the Central Government.

31. *Return of security in certain cases.*—Where any keeper of a press or publisher of a newspaper or news-sheet—

(*a*) has deposited any amount as security as required under section 4 or section 7 and no further action has been taken in respect of the press or newspaper or news-sheet under this Act for a period of two years from the date of such deposit, or

(*b*) has deposited any further security as required under section 5 or section 8 and no further action has been taken in respect of the press or newspaper or news-sheet under this Act for a period of three years from the date of such deposit,

the person who made the deposit or ony person claiming under him may apply to the magistrate, within whose jurisdiction such press is situate, or, as the case may be, such newspaper or news-sheet is published for the return of the security in deposit ; and thereupon such security shall, upon proof of the claim of the applicant to the satisfaction of the magistrate, be returned to such person.

32. *Bar of jurisdiction.*—Every declaration of forfeiture purporting to be made under this Act shall, as against all persons, be conclusive evidence that the forfeiture therein referred to has taken place, and no proceeding purporting to be taken under this Act shall be called in question by any court except the High Court on appeal or application under section 22 or section 23, and no civil or criminal proceeding except as provided by this Act shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

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33. *Bar of double penalty.*—Notwithstanding anything contained in this Act,—

(*a*) no keeper of a press shall be punished under section 25, if for the same act or omission the press or any part thereof has been forfeited under sub-section (2) of section 6 or sub-section (3) of section 9; and

(*b*) no press or part of a press shall be forfeited under sub-section (2) of section 6 or sub-section (3) of section 9, if for the same act or omission the keeper of the press has been punished under section 25.

34. *Amendment of sections 4 and 8, Act XXV of 1867.*—In the Press and Registration of Books Act, 1867,—

(*a*) in section 4, for the words "the Magistrate" the words "the District, Presidency or Sub-Divisional Magistrate" shall be substituted; and

(*b*) in section 8, for the words "any Magistrate" the words "any District, Presidency or Sub-Divisional Magistrate" shall be substituted.

35. *Repeals.*—(1)The Acts specified in the First Schedule are hereby repealed.

(2) Any provision contained in any of the Provincial or State Acts specified in the Second Schedule, in so far as it imposes any restrictions on the printing, publication or circulation of any newspaper, news-sheet, book or other document, whether by providing for the pre-censorship thereof, or for the demand of security from the printer or publisher, or in any other manner shall cease to have effect.

THE FIRST SCHEDULE

[*See* section 35 (1)]

CENTRAL ACTS

1. The Indian States (Protection against Disaffection) Act, 1922.
2. The Press (Emergency Powers) Act, 1931 (XXIII of 1931).
3. The Foreign Relations Act, 1932 (XII of 1932).
4. The Indian States (Protection) Act, 1934 (XV of 1934).

STATE ACTS

1. The Indian States (Protection against Disaffection) Act, 1922.
2. The Madhya Bharat Press (Emergency Powers) Act, 1950 (LXXI of 1950).
3. The Mysore Press and Newspapers Act, 1940 (XIV of 1940).
4. The Patiala and East Punjab States Union Press (Emergency Powers) Ordinance, 2006 (XIV of 2006).
5. The Rajasthan Press Control Ordinance, 1949 (XLVI of 1949).

THE SECOND SCHEDULE

[*See* section 35 (2)].

1. The Assam Maintenance of Public Order Act, 1947 (V of 1947),
2. The Bihar Maintenance of Public Order Act, 1949 (III of 1949).
3. The Bombay Public Security Measures Act, 1947 (VI of 1947).
4. The Madhya Pradesh Public Security Measures Act, 1950 (XXIII of 1950).
5. The Madras Maintenance of Public Order Act, 1949 (XXIII of 1949).
6. The Orissa Maintenance of Public Order Act, 1950 (X of 1950).
7. The West Bengal Security Act, 1950 (XIX of 1950).
8. The United State of Gwalior, Indore, and Malwa (Madhya Bharat) Maintenance of Public Order Act, Samvat 2005 (VII of 1949).
9. The Patiala and East Punjab States Union Public Safety Ordinance, 2006 (VII of 2006).
10. The Rajasthan Public Security Ordinance, 1949 (XXVI of 1949).
11. The Saurashtra Public Safety Measures Ordinance, 1948 (IX of 1948).
12. The Travancore-Cochin Safety Measures Act, 1950 (V of 1950).
13. The Bhopal State Public Safety Act, 1947 (V of 1947).

NEW DELHI,
the 25th September 1951.

C. RAJAGOPALACHARI.